

Message Text

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PAGE 01 GENEVA 04807 01 OF 03 151914Z

ACTION STR-04

INFO OCT-01 IO-13 ISO-00 STRE-00 OIC-02 AF-10 ARA-10

EA-07 EUR-12 NEA-10 AGRE-00 CEA-01 CIAE-00

COME-00 DODE-00 EB-07 FRB-03 H-01 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-01 EPG-02 AID-05

SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00

OMB-01 /139 W

-----151928Z 081021 /45

P 151800Z JUN 77

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TO SECSTATE WASHDC PRIORITY 8271

LIMITED OFFICIAL USE SECTION 1 OF 3 GENEVA 4807

USMTN

ACTION STR

E.O. 11652: N/A

TAGS: MTN, ETRD, GATT

SUBJ: TARIFFS: EXCEPTIONS STRATEGY

1. APPROACH TO TARIFF OFFERS AND EXCEPTIONS CONTAINED IN LAST HALF OF MAY 25 EXCEPTIONS STRATEGY PAPER IS GENERALLY IN KEEPING WITH MTN DEL VIEWS, BUT WE HAVE SERIOUS PROBLEMS WITH PCORTION OF PAPER ON AGRICULTURAL PRODUCTS. OUR COMMENTS ON THESE TWO RELATED ISSUES FOLLOW. RATHER THAN ATTEMPT TO PROVIDE DETAILED COMMENTS ON TEXT OF 22-PAGE EXCEPTIONS STRATEGY PAPER, WE PREFER TO DISCUSS THE ISSUES RAISED IN THE PAPER AND PROVIDE OVERVIEW WHICH WE HOPE WILL BE REFLECTED IN NEXT DRAFT OF PAPER.

2. OFFERS AND EXCEPTIONS:

(A) WE ARE PLEASED WITH THE APPROACH FAVORED IN THE LIMITED OFFICIAL USE

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PAGE 02 GENEVA 04807 01 OF 03 151914Z

PAPER IN THAT IT DOESN'T HAVE THE U.S. TRYING TO USE THE OFFERS/EXCEPTIONS LISTS IT INITIALLY TABLE MULTI-LATERALLY AS THE PRINCIPAL VEHICLE TO INCREASE BARGAINING LEVERAGE FOR THE BILATERAL PHASE. WE ASSUME PAPAER IS PREMISED ON CONCCCLUSION THAT A U.S. STRATEGY FOUNDED PRINCIPALLY ON THE COMPOSITION AND LENGTH OF THESE LISTS (AND ELEMENTS ASSOCIATED WITH PRESENTATION

OF THE LISTS, E.G., GENERAL HEADNOTES, "TO BE SPECIFIED LATER" ENTRIES, ETC.) WON'T GO VERY FAR TO ASSURE ATTAINMENT OF SPECIFIC U.S. NEGOTIATING OBJECTIVES. SO LONG AS THE EXCEPTIONS PROVESS IS MULTILATERAL AND "TRANSPARENT" IN CHARACTER, IT IS A POOR TIME FOR THE U.S. TO TRY TO OUTMANEUVER ITS TRADING PARTNERS. WE THINK THAT WHAT CAN BE GAINED FROM A TACTICALLY-MOTIVATED EXCEPTIONS LIST IS OUTWEIGHED BY THE POTENTIAL LOSS OF FUTURE NEGOTIATING FLEXIBILITY THAT SUCH A LIST PUTS AT RISK. ON THE OTHER HAND, THE BILATERALS WHICH WILL BE HELD BOTH BEFORE AND AFTER THE OFFERS/EXCEPTIONS LISTS ARE TABLE ARE BY FAR THE MORE ADVANTAGEOUS (AND CRITICAL) OCCAISONS FOR USING VARIOUS TACTICAL DEVICES TO BUILD BARGAINING LEVERAGE. THIS IS ESPECIALLY TRUE IN THE MTN, WHERE SEVERAL AGREEMENTS OUTSIDE THE TARIFFS AREA ARE SIMULTANEOUSLY BEING NEGOTIATED.

(B) WE BELIEVE THAT WAHT THE PAPER CALLS MAXIMUM OFFERS TIED TO RECIPROCITY (I.E., AN EXCEPTIONS LIST CONFINED TO ITEMS MANDATORILY EXCEPTED AND TO ADDITIONAL ITEMS WHICH HAVE MET A RIGOROUS TEST OF IMPORT SENSITIVITY BASED ON CRITERIA ESTABLISHED BY THE TPSC), CAN BE TABLED BY THE U.S. WITHOUT EITHER LOSING LONGER-TERM BARGAINING LEVERAGE OR EXPOSING OUR MAXIMUM NEGOTIATING POSITION AT THE OUTSET. THE APPROACH LETS US RETAIN THE POSSIBILITY OF IMPROVING ON A "MAXIMUM" U.S. OFFER BECAUSE: (1) THERE WILL BE A GAP BETWEEN WHAT IS CALLED FOR UNDER THE FORMULA AND LIMITED OFFICIAL USE

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PAGE 03 GENEVA 04807 01 OF 03 151914Z

WHAT WE CAN DO UNDER THE TRADE ACT AUTHORITY (E.G., DUTY ELIMINATION IN THE 0 TO 5 PERCENT RANGE); (2) THERE INEVITABLE WILL BE REQUESTS FROM OUR TRADING PARTNERS FOR RECLASSIFICATIONS, TECHNICAL AMENDMENTS, ETC., THAT WILL PROVIDE OTHER MEANS OF "SWEETENING THE POT" AT CRITICAL POINTS; (3) A "MAXIMUM OFFER" CAN STILL BE TAILORED TO LEAVE ROOM FOR FUTURE MODIFICATION OF WHAT ARE CURRENTLY ECONOMICALLY-JUSTIFIED EXCEPTIONS, E.G., PARTIAL OFFERS WHICH COULD BE MADE FULL OFFERS IF DOMESTIC CONDITIONS AND FOREIGN OFFERS WARRANT.

(C) TO THE EXTENT THAT "SWEETENING THE POT" HAS TO BE COMPLEMENTED BY THE THREAT OF WITHDRAWALS, WE ARE MORE OPTIMISTIC THAN THE PAPER ABOUT THE CREDIBILITY OF SUCH AS THREAT. WHILE THIS TACTIC YIELDED A DISAPPOINTING OUTCOME IN THE KENNEDY ROUND, OUT TRADING PARTNERS ARE NOW AWARE OF THE REAL CONSTRAINTS ON U.S. ACTION IMPOSED BY SECTIONS 104(A)

AND 126 OF THE TRADE ACT. HOWEVER, MTN DEL BELIEVES
THAT THE EARLY STAGES OF BILATERAL BARGAINING ARE NOT
A SUITABLE TIME TO UNVEIL A LIST OF PROBABLE U.S.
WIEHDRAWAL ITEMS. EVEN IN THE EVENT THAT A LARGE
QUANTITATIVE IMBALANCE IN INITIAL OFFERS EXISTS, OUR
MAIN THRUST IN THIS INITIAL PERIOD SHOULD BE
TOWARD IMPRESSING UPON INDIVIDUAL TRADING PARTNERS
THE IMPORTANCE WE ATTACH TO CERTAIN SPECIFIC FOREIGN
CONCESSIONS, WHETHER TARIFF OR NTM. THE OPPORTUNITY
FOR SUCH FRANK DISCUSSIONS WILL BE LOST IF THIS
PERIOD IS GIVEN OVER TO THREAT (AND COUNTERTHREAT)
REGARDING THE ABSENCE OF RECIPROCITY. MOREOVER,
FOR A LIST OF WITHDRAWAL ITEMS TO CARRY A HEALTHY
PUNCH, IT SHOULD BE BASED ON KNOWLEDGE OF WHAT IS
OF VITAL COMCERN TO ONE'S TRADING PARTNERS. SINCE
THE U.S. WILL ONLY BEGIN TO GET A FIRM FIX ON OTHERS'
PRIORITIES ONCE THE BILATERAL PHASE IS WELL UNDERWAY,
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PAGE 04 GENEVA 04807 01 OF 03 151914Z

ANY RELATIVELY FIRM LIST ARRIVED AT IN ADVANCE OF
BILATERALS IS LIKELY TO BE LESS USEFUL THAN ONE
THAT IS DETERMINED AS THE BILATERALS PROGRESS.

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PAGE 01 GENEVA 04807 02 OF 03 151859Z
ACTION STR-04

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EA-07 EUR-12 NEA-10 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-07 FRB-03 H-01 INR-07 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 EPG-02 AID-05
SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00
OMB-01 /139 W

-----151922Z 080764 /46

P 151800Z JUN 77

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TO SECSTATE WASHDC PRIORITY 8272

LIMITED OFFICIAL USE SECTION 2 OF 3 GENEVA 4807

(D) AS THE PAPER POINTS OUT, SUCCESS OF U.S. STRATEGY WILL VERY MUCH DEPEND ON HOW WELL WE HANDLE PRESENTATION OF A "TIED ITEMS" LIST IN THE BILATERAL PHASE. FOR EXAMPLE, WHILE IN THE CASE OF SOME "TIED ITEMS" WE MAY WANT TO MAKE OUR CONDITIONS KNOWN ALMOST IMMEDIATELY (E.G., ON ITEMS IN OTHERS' EXCEPTIONS LISTS WHERE DISPARITIES ALREADY EXIST), THERE ARE LIKELY TO BE FAR MORE SITUATIONS WHERE WE WILL WANT TO PROBE THE POSITION OF OUR TRADING PARTNERS MORE THOROUGHLY BEFORE ESTABLISHING A FIRM CONDITION ON U.S. ACTIONS. STATUS OF PROGRESS IN OTHER GROUPS (E.G., GOVERNMENT PROCUREMENT) WILL ALSO DETERMINE TIMING OF SUCH STEPS. WE WILL ALSO HAVE HAD AN OPPORTUNITY TO CITE PRIORITIES AND LINKAGES IN INTERIM BILATERALS (NOT MENTIONED IN PAPER) BETWEEN TIMING OF A DECISION ON THE TARIFF NEGOTIATING PLAN AND TABLING OF OFFERS AND EXCEPTIONS.

(E) SUMMING-UP THE ABOVE, WHILE WE OTHERWISE ENDORSE THE DIRECTION THE LATEST PAPER HAS TAKEN US WE THINK IT VITAL THAT FUTURE PAPERS ON EXCEPTED OFFERS BE LIMITED TO OFFICIAL USE

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PAGE 02 GENEVA 04807 02 OF 03 151859Z

TIONS STRATEGY SHOULD MORE FULLY TAKE INTO ACCOUNT THE FOLLOWING: (1) WE NEED A STRATEGY FOR THE BILATERAL NEGOTIATING PROCESS, WITHOUT GREAT EMPHASIS ON THE OFFERS/EXCEPTIONS TABLING; (2) THE COMPOSITION AND LENGTH OF THE U.S. OFFERS/EXCEPTIONS LISTS ARE NOT THE PRINCIPAL MEANS FOR ACHIEVING A SUCCESSFUL OUTCOME TO THE BILATERAL PHASE; (3) THE U.S. STRATEGY, INCLUDING SIZE AND TYPE OF LISTS WE TABLE MULTILATERALLY, CAN'T BE FINALLY CHOSEN UNTIL WE HAVE A MORE PRECISE KNOWLEDGE OF THE NUMBER OF ITEMS THAT WOULD LIKELY QUALIFY FOR COMPLETE OR PARTIAL EXCEPTIONS BY US. WE ALSO NEED TO KNOW MORE ABOUT THE COMPOSITION OF A "TIED ITEMS" LIST LINKED TO NTM PROGRESS, DISPARITIES, ETC., AS WELL AS HOW CONTROLLING (POLITICALLY) THESE CONDITIONS WILL BE. THIS IS ESPECIALLY IMPORTANT IF WE ARE GOING TO BE ABLE TO PREDICT HOW MUCH LEEWAY WE WILL HAVE TO THREATEN WITHDRAWAL OF ADDITIONAL, NON-TIED ITEMS FROM A "MAXIMUM OFFER" AS A MEANS OF PRYING LOOSE OFFERS FROM OUR TRADING PARTNERS.

3. AGRICULTURAL TARIFFS:

(A) WE BELIEVE THAT NONE OF THE THREE OPTIONS SUGGESTED (PP.6-14) FOR DEALING WITH AGRICULTURE (1) REQUEST-OFFER FOR BOTH INDUSTRY AND AGRICULTURE,

(2) EACH PARTICIPANT USE OWN DISCRETION ON COVERAGE,
(3) AGREE TO SORT-OF APPLY THE FORMULA AS A GUIDELINE
AND THEN DO AS EACH PLEASES) ARE VIABLE ALTERNATIVES.
EACH ASSUMES THAT WE CAN MAXIMIZE THE REDUCTION OF
FOREIGN AGRICULTURAL TARIFFS BY AVOIDING A DIRECT
SOLUTION TO THE QUESTION OF PRODUCT COVERAGE OF A
TARIFF FORMULA AND TO THE PROCEDURAL ISSUE OF WHERE
AGRICULTURAL TARIFFS ARE NEGOTIATED. WE DISAGREE
WITH THAT ASSUMPTION.

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PAGE 03 GENEVA 04807 02 OF 03 151859Z

(B) WE CONTINUE TO BELIEVE THAT THE SOLUTION
WHICH OFFERS THE BEST CHANCE OF MEETING U.S. OBJEC-
TIVES IN AGRICULTURAL TARIFFS AND WHICH IS MOST LIKELY
TO AVOID THE STERILE TIME-CONSUMING PROCEDURAL DEBATES
OF THE PAST SEVERAL YEARS (INDEED, SINCE THE
BEGINNING OF THE KENNEDY ROUND IN 1963) IS TO AGREE
TO A TARIFF FORMULA APPROACH FOR INDUSTRIAL ITEMS
AND A REQUEST-OFFER PROCEDURE FOR AGRICULTURE.
(SEE MTN GENEVA 3742 AND 4563 FOR OUR RECOMMENDATIONS.)
IN EXCHANGE FOR AGREEING TO A PROCEDURE THAT VIRTUALLY
ALL OTHER DEVELOPED COUNTRY PARTICIPANTS WANT (WITH
THE POSSIBLE EXCEPTION OF AUSTRALIA), WE SHOULD SEEK
ASSURANCES THAT SIGNIFICANT REDUCTIONS WILL BE MADE
ON AGRICULTURAL TARIFFS WHERE TARIFF PROTECTION IS
THE MAIN PROTECTIVE DEVICE AND AGREEMENT ON A
PROCEDURE LINKING THE TIMING OF REQUEST-OFFERS ON
AGRICULTURAL PRODUCTS WITH THE TABLING OF OFFERS/
EXCEPTIONS ON INDUSTRIAL PRODUCTS. IF A TIME LINKAGE
BETWEEN THESE IS ESTABLISHED, THE QUESTION OF WHERE
AGRICULTURAL TARIFFS ARE NEGOTIATED (IN TARIFFS OR
AGRICULTURE GROUPS) BECOMES LESS IMPORTANT SINCE
NEGOTIATIONS AT THAT STAGE WILL ENTER THE BILATERAL
PHASE WHERE WE CAN MAKE WHATEVER LINKAGES (EXPLICIT
OR IMPLICIT, GENERAL OR SPECIFIC) THAT WE DETERMINE
NECESSARY.

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PAGE 01 GENEVA 04807 03 OF 03 151916Z
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SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00
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-----151923Z 081020 /45

P 151800Z JUN 77

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TO SECSTATE WASHDC PRIORITY 8273

LIMITED OFFICIAL USE SECTION 3 OF 3 GENEVA 4807

(C) WE PREFER THIS APPROACH FOR TWO BASIC REASONS: FIRST, U.S. DEL'S DETAILED ANALYSIS OF U.S. AGRICULTURAL EXPORTS (COPY GIVEN TO STARKEY) INDICATES THAT U.S. INTERESTS IN AGRICULTURE WHERE TARIFFS ARE THE PRINCIPAL BARRIER, ARE CONCENTRATED IN A COMPARATIVELY SMALL NUMBER OF PRODUCTS, SUITABLE TO A REQUEST AND OFFER PROCEDURE. GRAINS, MEAT AND DAIRY PRODUCTS (WHERE THE PRINCIPAL TRADE BARRIERS IN MANY COUNTRIES ARE NTBS) ARE ALREADY BEING DEALT WITH IN SEPARATE GROUPS AND PRESUMABLY WILL NOT BE SUBJECT TO THE TARIFF-CUTTING FORMULA. OF THE OTHER AGRICULTURAL ITEMS PROTECTED PRIMARILY BY TARIFFS, 50 TARIFF ITEMS ACCOUNT FOR OVER 90 PERCENT OF U.S. DUTIABLE AGRICULTURAL EXPORTS TO THE EC AND JAPAN. THIS SUGGESTS THAT A REQUEST-OFFER PROCEDURE CONCENTRATING ON A LIMITED NUMBER OF ITEMS IN KEY MARKETS MAY BE BETTER SUITED TO U.S. AGRICULTURAL EXPORT OBJECTIVES AND MAY BETTER SERVE IMPORT-SENSITIVE PORTIONS OF U.S. AGRICULTURE. FURTHERMORE, A REQUEST-OFFER PROCEDURE FOR AGRICULTURAL TARIFFS MAY ALSO BE USEFUL IN DEVELOPING A STRATEGY

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PAGE 02 GENEVA 04807 03 OF 03 151916Z

FOR OBTAINING CONCESSIONS FROM DEVELOPING COUNTRIES. U.S. MTN ANALYSIS OF U.S. IMPORTS FROM DEVELOPING COUNTRIES INDICATES THAT AGRICULTURAL ITEMS ACCOUNT FOR A LARGE SHARE OF U.S. IMPORTS IN ITEMS WHERE LDCS SUPPLY OVER 50 PERCENT OF U.S. IMPORTS AND WHERE AN LDC IS THE PRINCIPAL SUPPLIER. WHILE WE DO NOT WANT TO OVEREMPHASIZE THE BARGAINING LEVERAGE THAT A REQUEST-OFFER PROCEDURE IN AGRICULTURE MIGHT GIVE US WITH THE LDCS, IT WOULD CERTAINLY BE GREATER THAN IF WE SUBJECTED THESE AGRICULTURAL ITEMS TO A TARIFF FORMULA.

(D) SECONDLY, THE EC HAS BEEN AND WILL CONTINUE TO BE WILLING TO RISK A CONFRONTATION ON THE AGRICULTURAL ISSUE RATHER THAN AGREE TO ANY PAPERING-OVER OF DIFFERENCES THAT LEAVES THE APPEARANCE THAT AGRICULTURAL TARIFFS AND INDUSTRIAL TARIFFS ARE BEING TREATED TOGETHER. NOT ONLY IS THE EC MANDATE CLEAR THAT AGRICULTURE IS TO BE TREATED SEPARATELY, BUT THE BUREAUCRATIC PREROGATIVES OF THE COMMISSION DIRECTORATES ARGUE AGAINST THE COMMISSION NEGOTIATING AGRICULTURAL TARIFFS ON THE SAME BASIS AS INDUSTRIAL TARIFFS.

(E) THE THIRD OPTION IN THE PAPER, WHICH APPEARS TO BE FAVORED, MISREPRESENTS THE JAPANESE FORMULATION. IN THE OCTOBER 1976 TARIFFS GROUP MEETING (SEE MTN/TAR/W/36 OF 14 OCTOBER 1976), THE JAPANESE SPOKESMAN STATED AS FOLLOWS: "THE GOVERNMENT OF JAPAN, IN DEVISING THE (TARIFF) FORMULA, HAS BORNE INDUSTRIAL PRODUCTS IN MIND. WITH REGARD TO TARIFFS ON AGRICULTURAL PRODUCTS, THE JAPANESE DELEGATION IS OF THE VIEW THAT IT IS DESIRABLE THAT OFFERS, WHILE FOLLOWING THE ABOVE FORMULA TO THE EXTENT POSSIBLE, BE TABLED IN LINE WITH THE PRECEDENT OF THE KENNEDY ROUND EXERCISE AND IN CONSIDERATION OF THE SPECIAL CHARACTERISTICS OF LIMITED OFFICIAL USE

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PAGE 03 GENEVA 04807 03 OF 03 151916Z

THE AGRICULTURAL SECTOR." THIS IS A REQUEST-OFFER PROCEDURE FOR AGRICULTURAL PRODUCTS SIMILAR TO THAT FAVORED BY THE EC. THE ONLY DIFFERENCE WE CAN SEE IS THAT THE FORMULA FOR INDUSTRIAL PRODUCTS WOULD BE USED WHERE POSSIBLE TO DETERMINE THE TARIFF REDUCTION FOR POSITIVE OFFERS ON AGRICULTURAL PRODUCTS WHILE THE EC HAS SO FAR BEEN SILENT ON THIS QUESTION. WE CONCLUDE, THEREFORE, THAT THE THIRD OPTION IS REALLY IDENTICAL IN PROCEDURE AND EXTENT OF COVERAGE TO THE SECOND OPTION.

(F) WE NEED TO DESIGN A STRATEGY WHICH WILL HELP US MOVE EXPEDITIOUSLY INTO THE BILATERAL BARGAINING PHASE. IT IS IN THE BILATERALS WHERE THE REAL TRADE-OFFS WILL BE MADE. WE THEREFORE ARGUE FOR A CLEAR-CUT ACCOMMODATION ON THIS ISSUE AS OUTLINED ABOVE RATHER THAN ATTEMPTING TO ACHIEVE ONE OF THE AMBIGUOUS FORMULATIONS OUTLINED IN THE EXCEPTIONS STRATEGY PAPER. CULBERT

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PAPERS, TARIFFS, TRADE AGREEMENTS
Control Number: n/a
Copy: SINGLE
Sent Date: 15-Jun-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977GENEVA04807
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770214-0088
Format: TEL
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770655/aaaabwgr.tel
Line Count: 380
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: de27777c-c288-dd11-92da-001cc4696bcc
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 09-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2146771
Secure: OPEN
Status: NATIVE
Subject: TARIFFS: EXCEPTIONS STRATEGY
TAGS: ETRD, US, GATT, MTN
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/de27777c-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009